

REMARKS

Claims 1-35 were previously pending in this application. Claims 1, 6, 7, 9, 11, 12, and 25 have been amended. New claim 36 has been added. As a result claims 1- 36 are pending for examination with claims 1, 12, and 25 being independent claims. No new matter has been added.

Rejections Under 35 U.S.C. §103

The Office Action rejected claims 1, 5-8, 25-28, 34, and 35 under 35 U.S.C. §103(a) as being unpatentable over Metke (US 6,565,435 B2) (hereinafter Metke). Applicant has amended the claims to further define Applicant's contribution to the art and submits the following remarks, traversing the rejection.

Metke discloses permitting a player at a gaming machine to enter an amusement game using a free method of entry. Specifically, a player submits information to an authorizing agent. (Col. 2, lines 11-19). The information may include information identifying the player and information identifying at least one amusement game location where the player wishes to engage in free play of an amusement game such as game unit 20. (Col. 2, lines 11-19). The authorizing agent creates authorization information and transmits this information to at least one amusement game unit in the location identified by the player. (Col. 2, lines 20-24). The agent 30 also transmits to the player 10 appropriate "free play" information corresponding to the authorization information sent to the game unit 20. (Col 2, lines 26-29). The game unit 20, will respond ... when the corresponding "free play" information is entered by the player, such as player 10. (Col 2, lines 30-34). At block 106, the player enters the free play information received from the agent to the game unit. (Col. 3, lines 5-6).

In summary, Metke discloses a method of permitting a player at an amusement game device the ability to enter authorization information at a game unit to play an *amusement game* at a given amusement game location using "free play" information. (Please see Abstract; and Col. 2, lines 26-29).

In contrast, claim 1, as amended, recites a method for conducting a game. The method comprises acts of providing for primary method of entry of at least one player in at least one game session of a wagering game, wherein the act of providing for the primary method of entry in the at least one game session includes an act of processing a wager having monetary value,

providing, to the at least one player, an alternative method of entry (AMOE) to the at least one game session of the wagering game, wherein the alternative method of entry provides a free method of entry into the at least one game session of the wagering game, executing the wagering game for the at least one player, and determining at least one winner from a plurality of players entered into the at least one game session, wherein at least one of the plurality of players entered the at least one game session of the wagering game through the primary method of entry, and wherein at least one of the plurality of players entered the at least one game session of the wagering game through the alternative method of entry (AMOE). Metke does not teach, suggest or disclose claim 1, as amended. The combination of Metke and a wagering game does not cure this deficiency.

In particular, Metke does not teach, suggest or disclose a game with a game session having a “primary method of entry of at least one player in at least one game session” including “an act of processing a wager having monetary value” and “an alternative method of entry (AMOE) to the at least one game session of the wagering game, wherein the alternative method of entry provides a free method of entry into the at least one game session of the wagering game,” as recited in claim 1, as amended. As discussed above, Metke discloses a process of providing a player free play information entered a device to play an amusement game. (Please see Col 1, lns. 51-52; Col. 2, lns. 11-29 and lns. 30-36). Metke does not teach, suggest or disclose a single game session with primary and alternative methods of entry. Nor does Metke teach or suggest “providing for the primary method of entry in the at least one game session” including “an act of processing a wager having monetary value,” as is recited in claim 1, as amended. Rather Metke discloses a process designed to provide an alternative method of entry to an amusement game through an authorization agent, there is no teaching with respect to entry into a game session, nor is there any teaching with respect to “processing a wager having monetary value.” (Please see Col. 1, lns. 38-48). The combination with a wagering game does not cure the deficiencies in Metke. Thus Metke even when combined with wagering games cannot teach, suggest or disclose a game with a game session having a “primary method of entry” including “an act of processing a wager having monetary value” and “an alternative method of entry (AMOE),” as is recited in claim 1, as amended.

The Examiner alleges that “wagering games are old and well known in the art and that it would have been obvious to substitute any game into the invention of Metke with expected

results (having free play in different games).” (Office Action, p. 11). Applicant respectfully disagrees and respectfully requests that the Examiner provide a reference teaching what is alleged to be well-known. (Please see MPEP §2144.03).

Applicant respectfully submits that the proposed substitution of a wagering game for an amusement game is not a simple substitution of known elements with predictable results, as alleged. In particular, amusement games are well-known in a particular environment such as, for example, an arcade or other amusement location. (See e.g. Metke, Col. 1, 16-17). Traditionally, the environments in which one would implement an amusement game are not related to the environment in which a wagering game would be implemented. Amusement games are not subject to the same type or level of regulation as that of wagering games, if any regulation applies to the amusement game at all. Conversely, one of skill in the art would recognize the implementation of wagering games is subject to significant regulation and hurdles not present in amusement games. (See e.g. Itkis et al. United States Application No. 2003/0171986 A1 (hereinafter Itkis), Col. 1, para [0002] – “at least two serious problems prevent direct application of linked bingo games ... namely questionable legality and high cost of conducting such games.”). As discussed in Itkis, one method of overcoming such difficulties (regulation) is to provide a game with only free methods of entry, (see Itkis, para. [0007-8]), thus based on the present record (in particular Itkis) one of skill in the art would not expect any result in substituting a wagering game with an amusement game, as alleged.

Additionally, the disclosure of Itkis specifically teaches away from the modifications proposed by the Examiner. “The above objectives of the present invention are achieved by conducting linked large-prize bingo games ... *at no cost* to patrons and in compliance with free sweepstakes laws and regulations.” (Col. 2, para. [0012])(emphasis supplied). Itkis teaches that one of skill in the art would look to implement a wagering game in this setting as a free only game, and that one of skill in the art would be cognizant of gaming regulation when seeking to implement such a game. (Please see Itkis, Col. 2, paras. [0012] and [0002]). The teachings of Itkis in this context are relevant to the combination proposed by the Examiner and must be considered. See MPEP § 2141.02 (prior art must be considered in its entirety, including disclosures that teach away from the claims). The comparison to assault rifles and grenade launchers (see Office Action, p. 11) is not relevant to the present case, as discussed above, in this context, Itkis specifically teaches that one of skill in the art would be cognizant of gaming

regulation, and would recognize that one should not use both payment methods of entry and free methods of entry in the same wagering game. Thus, Applicant respectfully submits, one of skill in the art would not make the proposed substitution of a wagering game for an amusement game. Nor would the result be predictable, as alleged.

Moreover, Metke does not teach, suggest or disclose claim 1, as amended. The combination with a wagering game does not cure this deficiency. In addition, the combination is first improper, second taught away from, and third would not result in the invention as claimed. Therefore, Applicant respectfully requests withdrawal of the rejection of claim 1. As claims 2-11 and 36 depend from claim 1, they are allowable for at least the same reasons.

Independent Claim 25

Claim 25, as amended recites, a computer-readable medium having computer-readable information stored thereon that define instructions that, as a result of being executed by a computer, instruct the computer to perform a method for conducting a game. The method comprises the acts of providing for primary method of entry of at least one player in at least one game session of a wagering game, wherein the act of providing for the primary method of entry into the at least one game session includes an act of processing a wager having monetary value, providing, to the at least one player, an alternative method of entry (AMOE) to the at least one game session of the wagering game, wherein the alternative method of entry provides a free method of entry into the at least one game session of the wagering game, executing the wagering game for the at least one player, and determining at least one winner from a plurality of players entered into the at least one game session, wherein at least one of the plurality of players entered the at least one game session of the wagering game through the primary method of entry, and wherein at least one of the plurality of players entered the at least one game session of the wagering game through the alternative method of entry (AMOE).

As discussed above with respect to independent claim 1, Metke does not teach, suggest or disclose all the elements of claim 25, as amended and the combination with wagering games does not cure the deficiencies. In particular, Metke does not teach, suggest or disclose a game session with a “primary method of entry” including “processing a wager having monetary value” and an “an alternative method of entry (AMOE) to the at least one game session,” as recited in claim 25. Further Applicant respectfully submits that the present record, and in particular Itkis,

describes the knowledge of one of skill in the art that is contrary to, and teaches away from, the combination proposed by the Office Action, thus the proposed combination cannot be a simple substitution as alleged. Lastly even if the proposed combination is assumed true, the combination does not teach or suggest all the elements of claim 25, as amended, as the proposed combination does not teach, suggest or disclose a single game session with a “primary method of entry” including “processing a wager having monetary value” and an “an alternative method of entry (AMOE),” as recited in claim 25, as amended.

Accordingly Applicant respectfully requests withdrawal of the rejection of claim 25. As claims 26-35 depend from claim 25, they are allowable for at least the same reasons.

The Office Action rejected claims 2, 4, 9, 10, 12-20, 22-24, 29-31 and 33 under 35 U.S.C. §103(a) as being unpatentable over Metke in view of Itkis. Applicant respectfully submits the following remarks, traversing the rejection.

The combination of Metke and Itkis is first improper, second taught away from, and third would not result in the invention as claimed, even if assumed proper. Itkis provides commercial establishments, such as bars, pubs, and clubs with an effective promotional tool capable of attracting patrons while extending patrons’ visits. (Para. 0006). Itkis teaches that in a majority of jurisdictions, bars and similar establishments are legally precluded from selling bingo cards to patrons. (Para. 0003). Itkis describes an object of the invention is to provide such games in a legally permissible manner. (Para. 0009). Another object disclosed is to provide funding for such *free* promotional games from commercial sources. (Para. 0010). Itkis teaches that *the objects of the present invention* are achieved by conducting linked large-prize bingo games simultaneously *at no cost* to patrons of the establishments and *in compliance with free sweepstakes laws and regulations*. (Para. 0012, emphasis supplied).

In summary, Itkis, et al. discloses providing exclusively a free method of entry into a linked promotional bingo game. (Please see e.g. Para. 0013; and Para. 0020). Itkis teaches that the free method of entry *is the only method that satisfies the objects of the invention*, which include deriving sources of funding for the free game. (Please see e.g. para. 0012). Thus Itkis teaches away from a combination with any reference that includes a pay method of entry. Further, the combination of Metke and Itkis would render the combination unsuited to the stated purposes of Itkis, making the combination improper. (See MPEP §2143.01).

Independent Claim 12

Claim 12, as amended, recites a wagering game. The wagering game comprises a computer system, having a display through which a game player plays the wagering game, wherein the computer system is further adapted to execute a game session of the wagering game for at least one of a player entered through a primary means of entry and at least one player entered through an alternative means of entry, a primary means of entry for entering a game session of the wagering game, wherein the primary means of entry further comprises a wager processing means for processing a wager having monetary value, and an alternative means of entry for entering the game session of the wagering game, wherein a game player enters the game session of the wagering game through the use of an alternative method of entry (AMOE).

As discussed above with respect to independent claim 1, Metke does not teach, suggest or disclose all the elements of claim 12, as amended. In particular, Metke does not teach, suggest or disclose “a primary means of entry for entering a game session” and “an alternative means of entry for entering the game session of the wagering game,” as recited in claim 12, as amended. Nor does Metke teach or suggest “wherein the primary means of entry further comprises a wager processing means for processing a wager having monetary value,” as recited in claim 12, as amended. Itkis does not supply the missing limitations. Moreover, as discussed above, Itkis teaches away from any combination that incorporates a payment method of entry. Therefore, Applicant respectfully requests withdrawal of the rejection of claim 12 over Metke in view of Itkis.

As claims 2, 4, 9, 10 depend from claim 1, 13-20, and 22-24 depend from claim 12, and 29-31 and 33 depend from claim 25, they are allowable for at least the reasons discussed with respect to the independent claims from which they depend.

Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 2, 4, 9, 10, 12-20, 22-24, 29-31 and 33.

Claims 3 and 32 were rejected under 35 U.S.C. 103(a) as being unpatentable over Metke in view of Langan, U.S. Patent No. 5,782,470, (hereinafter Langan).

As discussed above Metke does not teach, suggest or disclose all the elements of the independent claims from which claims 3 and 32 depend. Langan fails to cure these deficiencies.

Langan is directed to a sweepstakes-type game in which pre-printed game cards are distributed to contestants which permit the contestants to predict the performance of selected players prior to an athletic event and which will reveal winning contestants and associated prizes based upon the geometric arrangement and/or point value of correct positions. (Abstract).

Langan does not teach or suggest providing a “primary method of entry” including “processing a wager having monetary value,” in one game session as is recited in the independent claims from which 3, and 32 depend. Thus, Langan does not cure the deficiencies discussed above with respect to Metke.

One skilled in the art would not be motivated to combine the teachings of Metke and Langan as suggested by the Examiner. Metke teaches for amusements games a free method of entry, however, Metke provides no motivation to apply such teaching to wagering games, and, other references of record cited by the Examiner indicate that one skilled in the art would not consider such a combination. (See e.g. Itkis – teaching that games including payment methods of entry would be prohibited in the sweepstakes setting of Langan (see e.g. Itkis, para. 0003)).

Accordingly, withdrawal of this rejection is respectfully requested.

Claim 21 was rejected under 35 U.S.C. 103(a) as being unpatentable over Metke as modified by Itkis, and in further view of Langan.

As discussed above with respect to Claims 2, 4, 9, 10, 12-20, 22-24, 29-31, and 33, the combination of Metke and Itkis is first improper, second, the alleged combination is taught away from by the references, and third, the combination would defeat the stated objectives of Itkis, if combined. As discussed with respect to Claims 3 and 32, Langan does not cure the deficiencies of the independent claims from which claim 3 and 32 depend. Neither problem is resolved by the addition of the other reference to the proposed combination.

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50/2762.

Respectfully submitted,
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